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weigh and store fish; full access to the vessel's records, including its logs and documentation, for the purpose of inspection and copying; access to, and use of, navigational equipment, charts and radios; and access to other information relating to fishing;

(iii) Remove samples;

(iv) Disembark at a place and time determined by NMFS or otherwise agreed to by NMFS and the vessel operator; and

(v) Carry out all duties safely.

(4) The operator shall provide the WCPFC observer, while on board the vessel, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel, at no expense to the WCPFC observer.

(5) The operator and crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass or interfere with WCPFC observers in the performance of their duties, or attempt to do any of the same.

(d) *Transshipment observer coverage—*

(1) *Receiving vessels.* Any fishing vessel of the United States used for commercial fishing that receives in the Convention Area a transshipment of HMS at sea must have a WCPFC observer on board during such transshipment unless at least one of the following sets of conditions applies:

(i) The vessel is less than or equal to 33 meters in registered length, the transshipment does not include any fish caught by purse seine gear, the transshipment does not include any frozen fish caught by longline gear, and, during the transshipment, there is a WCPFC observer on board the vessel that offloads the transshipment;

(ii) The transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, and only includes fish caught in such waters; or

(iii) The transshipment is an emergency, as specified under § 300.216(b)(4).

(2) *Offloading vessels.* Any fishing vessel of the United States used for commercial fishing that offloads a transshipment of HMS at sea in the Convention Area must have a WCPFC observer

on board, unless one or more of the following conditions apply:

(i) The vessel that receives the transshipment has a WCPFC observer on board;

(ii) The vessel that receives the transshipment is greater than 33 meters in registered length;

(iii) The transshipment includes fish caught by purse seine gear;

(iv) The transshipment includes frozen fish caught by longline gear;

(v) The transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, and only includes fish caught in such waters; or

(vi) The transshipment is an emergency, as specified under § 300.216(b)(4).

(e) *Related observer requirements.* Observers deployed by NMFS pursuant to regulations issued under other statutory authorities on vessels used for fishing for HMS in the Convention Area will be deemed by NMFS to have been deployed pursuant to this section.

[77 FR 71509, Dec. 3, 2012]

§ 300.216 Transshipping, bunkering and net sharing.

(a) *Transshipment monitoring.* [Reserved]

(b) *Restrictions on transshipping and bunkering—*(1) *Restrictions on transshipments involving purse seine fishing vessels.* (i) Fish may not be transshipped from a fishing vessel of the United States equipped with purse seine gear at sea in the Convention Area, and a fishing vessel of the United States may not be used to receive a transshipment of fish from a fishing vessel equipped with purse seine gear at sea in the Convention Area.

(ii) Fish caught in the Convention Area may not be transshipped from a fishing vessel of the United States equipped with purse seine gear at sea, and a fishing vessel of the United States may not be used to receive a transshipment of fish caught in the Convention Area from a fishing vessel equipped with purse seine gear at sea.

(2) *Restrictions on at-sea transshipments.* If a transshipment takes place entirely within the territorial

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seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, and only includes fish caught within such waters, this paragraph does not apply.

(i) The owner and operator of a fishing vessel of the United States used for commercial fishing that offloads or receives a transshipment of HMS at sea in the Convention Area must ensure that a WCPFC observer is on board at least one of the vessels involved in the transshipment for the duration of the transshipment.

(ii) A fishing vessel of the United States used for commercial fishing that receives transshipments of HMS at sea in the Convention Area shall not receive such transshipments from more than one vessel at a time unless there is a separate WCPFC observer available on either the offloading or receiving vessel to monitor each additional transshipment.

(3) *General restrictions on transshipping and bunkering*—(i) *Transshipment*. Only fishing vessels that are authorized to be used for fishing in the EEZ may engage in transshipment in the EEZ. Any fishing vessel of the United States used for commercial fishing shall not be used to offload or receive a transshipment of HMS in the Convention Area unless one or more of the following is satisfied:

(A) The other vessel involved in the transshipment is flagged to a Member or Cooperating Non-Member of the Commission;

(B) The other vessel involved in the transshipment is on the WCPFC Record of Fishing Vessels;

(C) The other vessel involved in the transshipment is on the WCPFC Interim Register of Non-Member Carrier and Bunker Vessels; or

(D) The transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, and only includes fish caught within such waters.

(ii) *Bunkering, supplying and provisioning*. Only fishing vessels that are authorized to be used for fishing in the EEZ may engage in bunkering in the EEZ. A fishing vessel of the United

States used for commercial fishing for HMS shall not be used to provide bunkering, to receive bunkering, or to exchange supplies or provisions with another vessel in the Convention Area unless one or more of the following is satisfied:

(A) The other vessel involved in the bunkering or exchange of supplies or provisions is flagged to a Member or a Cooperating Non-Member of the Commission;

(B) The other vessel involved in the bunkering or exchange of supplies or provisions is on the WCPFC Record of Fishing Vessels; or

(C) The other vessel involved in the bunkering or exchange of supplies or provisions is on the WCPFC Interim Register of Non-Member Carrier and Bunker Vessels.

(4) *Emergency transshipments*. The restrictions in paragraphs (b)(1), (b)(2), and (b)(3)(i) of this section shall not apply to a transshipment conducted under circumstances of force majeure or other serious mechanical breakdown that could reasonably be expected to threaten the health or safety of the vessel or crew or cause a significant financial loss through fish spoilage.

(c) *Net sharing restrictions*. (1) The owner and operator of a fishing vessel of the United States shall not conduct net sharing in the Convention Area unless all of the following conditions are met:

(i) The vessel transferring the fish is a fishing vessel of the United States equipped with purse seine gear;

(ii) The vessel transferring the fish has insufficient well space for the fish;

(iii) The vessel transferring the fish engages in no additional purse seine sets during the remainder of the fishing trip; and

(iv) The vessel accepting the fish is a fishing vessel of the United States equipped with purse seine gear.

(2) Only fishing vessels of the United States that are authorized to be used for fishing in the EEZ may engage in net sharing in the EEZ, subject to the provisions of paragraph (c)(1) of this section.

[77 FR 71510, Dec. 3, 2012]